



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an end to the tenancy and an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent and utilities pursuant to section 67; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:10 a.m. in order to enable them to connect with this hearing scheduled for 11:00 a.m. The male landlord (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. He testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities (the 10 Day Notice) on the tenants' door on January 3, 2012. He testified that he handed a copy of the landlords' dispute resolution hearing package to the male tenant on January 13, 2012. He entered into written evidence a statement from an individual who witnessed him hand this package to the male tenant. He entered into written evidence a copy of the Canada Post Customer Receipt and Tracking Number to confirm that he sent the female tenant a copy of the hearing package by registered mail on January 14, 2012. I am satisfied that the landlords served these documents to the tenants in accordance with the *Act*.

At the commencement of the hearing, the landlord confirmed that the tenants vacated the rental premises on January 25, 2012, at which time they dropped their keys to the suite in the landlord's mailbox. As the tenancy has ended and the landlords now have possession of the rental unit, the landlord withdrew his application for an Order of Possession.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent and utilities? Are the landlords entitled to recover their filing fee for this application from the tenants?

Background and Evidence

This six-month fixed term tenancy commenced on December 1, 2011. Monthly rent was set at \$975.00, payable in advance on the first of each month. The tenants were

responsible for heat and hydro. The landlords continue to hold the tenants' \$487.50 security deposit paid on December 1, 2011.

The landlords' application for a monetary award of \$1,085.00 monetary award included unpaid rent of \$975.00 for January 2012, and unpaid utilities of \$110.00 for December 2011. They identified both of these unpaid items in their 10 Day Notice. At the hearing, the landlord asked for an amendment of the application for dispute resolution to include the request for unpaid utilities that will become owing for January 2012, an amount which he estimated at \$110.00, the same cost as the December 2011 utility bill. I agreed to include this additional request as the tenants were clearly aware through the landlords' evidence package that the landlords would be seeking this additional amount.

Analysis

Based on the undisputed evidence before me, I find that the landlords are entitled to a monetary award of \$975.00 for unpaid rent for January 2012, and \$110.00 in unpaid utilities owing for each of December 2011 and January 2012. As the landlords were successful in their application, I allow their request to recover their \$50.00 filing fee from the tenants.

Although the landlords' application does not seek to retain the tenants' security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlords to retain the \$487.50 security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period.

Conclusion

I issue a monetary award in the landlords' favour in the following terms which allows the landlords to recover unpaid rent, utilities and the filing fee for their application and to retain the tenants' security deposit;

Item	Amount
Unpaid January 2012 Rent	\$975.00
Unpaid December 2011 Utilities	110.00
Unpaid January 2012 Utilities	110.00
Less Security Deposit	-487.50
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$757.50

The landlords are provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible. Should the tenant(s) fail to

comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 03, 2012

Residential Tenancy Branch